

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

BRIAN GUTIERREZ VILLASENOR,

Defendant.

Case No. [18-cr-00437-SI-1](#)

**ORDER DENYING SECOND MOTION
FOR COMPASSIONATE RELEASE
AND GRANTING MOTION TO SEAL**

Re: Dkt. Nos. 61, 69, 71

Brian Gutierrez Villaseñor has filed a second motion for compassionate release. Villaseñor's counsel filed a supplement to the motion on February 10, 2023, and the government filed an opposition on March 15, 2023. Villaseñor did not file a reply. For the reasons set forth below, the Court DENIES the motion.

DISCUSSION

Defendant Brian Gutierrez Villaseñor is 31 years old and currently serving a 120-month sentence for his convictions on one count of possession with intent to distribute 50 grams or more of methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(A)(vii), and one count of transporting funds to promote unlawful activity, in violation of 21 U.S.C. § 1956(a)(2)(A). Villaseñor was distributing cocaine and methamphetamine for a dark web site for at least four years, and when he was arrested officers found six firearms that belonged to him. At the time of his arrest, Villaseñor was living with his mother and grandmother. Villaseñor is incarcerated at FCI Lompoc and his projected release date is February 13, 2027.

In an order filed December 1, 2020, the Court denied Villaseñor's first motion for compassionate release without prejudice to renewal in the event his situation "significantly

deteriorates.” Dkt. No. 60 at 1.

Villasenor has filed a second motion for compassionate release, asserting that his obesity and asthma continue to place him at higher risk of complications in the event he contracts COVID-19, and that he needs a different type of inhaler than he currently has to treat his asthma. Villasenor requests that he be released to live with his mother and grandmother, and he states that if released he would take care of his mother and grandmother and also get a job so he could help his family financially.

The government opposes Villasenor’s motion on numerous grounds. The government argues that Villasenor’s situation has actually improved since 2020 because he has received the COVID-19 vaccine, the Bureau of Prisons is effectively managing the pandemic at its facilities, and there are currently no COVID cases at FCI Lompoc. The government also argues that the factors under 18 U.S.C. § 3553(a) weigh against compassionate release because Villasenor has served less than half of his sentence for his convictions based on his participation in complex drug distribution scheme, and the government emphasizes the fact that Villasenor possessed numerous dangerous firearms at the time of his arrest. The government also notes that since the denial of Villasenor’s last compassionate release motion, he has incurred two significant disciplinary sanctions for being caught with a cell phone in September 2021 and using marijuana/THC in October 2022. Paulson Decl. Ex. 2 (Dkt. No. 71-2).¹

For all of the reasons stated in the Court’s prior order, the Court finds that compassionate release is not appropriate, including that requiring Villasenor to serve less than half of his sentence does not satisfy “the need for the sentence imposed . . . to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the crime,” nor would it “afford adequate deterrence to criminal conduct.” 18 U.S.C. § 3553(a)(2)(A)-(C). In addition, the concerns presented by the COVID-19 pandemic have significantly abated since 2020 due to the availability of vaccines and boosters and the improved conditions at FCI Lompoc. While Villasenor asserts that he needs a different type of inhaler for his asthma, the record shows that he has received treatment

¹ The Court GRANTS the government’s request to seal Villasenor’s medical and disciplinary records.

1 for his asthma, and the issues he raises with regard to his asthma do not rise to the level of meriting
2 compassionate release. Finally, the Court is quite troubled by Villasenor's recent and serious
3 disciplinary infractions, which raise concerns about his ability to perform well if he were granted
4 early release.

5
6 **IT IS SO ORDERED.**

7
8 Dated: April 7, 2023



SUSAN ILLSTON
United States District Judge